

AMENDED IN SENATE AUGUST 21, 2014

**SENATE BILL**

**No. 1376**

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**Introduced by Senator Gaines**

February 21, 2014

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An act to ~~add and repeal Section 17054.6 of the Revenue and Taxation Code, amend Section 4004 of, and to add Section 4004.6 to, the Penal Code, relating to taxation, imprisonment, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately, tax levy, immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1376, as amended, Gaines. ~~Personal income taxes; credit; health care coverage. County jail inmates; involuntary transfer.~~

Existing law provides for the commitment of persons to county jails upon conviction of a public offense. Existing law authorizes a sheriff, if facilities are no longer available in the county jail due to crowded conditions, to transfer a person committed to a county jail upon conviction for a public offense to facilities that are available in the city jail.

This bill would authorize the sheriff of a county to contract with any state, county, or private jail or prison system in the United States for the confinement of inmates on behalf of the county and to transfer inmates to those facilities, with or without the inmate's permission. The bill would authorize the county to submit an invoice, and the department to pay, for the actual cost of housing and transportation of transferred inmates. The bill would appropriate an unspecified amount from the General Fund to the Department of Corrections and Rehabilitation for these purposes.

*This bill would declare that it is to take effect immediately as an urgency statute.*

The Personal Income Tax Law allow various credits against the taxes imposed by that law.

This bill, for taxable years beginning on or after January 1, 2014, and before January 1, 2016, would allow a credit equal to 50% of the annual premium amount paid or incurred for an individual health care service plan contract or individual policy of health insurance during the taxable year by a qualified taxpayer, which is defined as an individual whose individual health care service plan contract or individual policy of health insurance was canceled between December 31, 2013, and December 31, 2014, inclusive, and, with respect to the purchase of a new individual plan contract or policy, the individual was not eligible for a federal subsidy or a federal health care tax credit, as specified.

This bill would take effect immediately as a tax levy.

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 4004 of the Penal Code is amended to  
2     read:
- 3     4004. (a) A ~~prisoner~~ person committed to the county jail for  
4     examination, or upon conviction for a public offense, ~~must~~ shall  
5     be actually confined in the jail until legally discharged, and if  
6     discharged. If the prisoner is permitted to go at large out of the  
7     jail, except by virtue of a legal order or process, it is an escape;  
8     provided, however, that escape. However, during the pendency of  
9     a criminal proceeding, the court before which said the proceeding  
10    is pending may make a legal order, with good cause appearing  
11    therefor, for the removal of the prisoner from the county jail in  
12    custody of the sheriff. In courts where there is a marshal, the  
13    marshal shall maintain custody of ~~such~~ the prisoner while the  
14    prisoner is in the court facility pursuant to ~~such~~ that court order.  
15    The superior court of the county may make a legal order, with  
16    good cause appearing therefor, for the removal of prisoners  
17    confined in the county jail, after conviction, in the custody of the  
18    sheriff. If
- 19    (b) If facilities are no longer available in the county jail due to  
20    crowded conditions, a sheriff may transfer a person committed to

the county jail upon conviction for a public offense to facilities which that are available in the city jail, as provided for in Section 4004.5, or to another facility as provided in Section 4004.6.

SEC. 2. Section 4004.6 is added to the Penal Code, to read:

4004.6. (a) The sheriff of a county may contract with any state, county, or private jail or prison system in the United States for the confinement of inmates on behalf of the county.

(b) The sheriff may transfer any person committed to the county jail upon conviction for a public offense to a facility with which the county has a contract, pursuant to subdivision (a), with or without the inmate's consent. Transfers shall be at the discretion of the county sheriff.

(c) The county may submit to the Department of Corrections and Rehabilitation an invoice showing the actual cost of housing and transportation of the inmates, including, but not limited to, personnel costs. The department shall reimburse the county for all costs incurred to house and transport inmates who are relocated pursuant to this section.

SEC. 3. The amount of \_\_\_\_\_dollars (\$\_\_\_\_\_) is hereby appropriated from the General Fund to the Department of Corrections and Rehabilitation to pay the cost of housing and transportation of inmates incurred pursuant to Section 4004.6 of the Penal Code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to preserve the safety of the people of California by preventing early release of county jail inmates, it is necessary for this measure to take effect immediately.

~~SECTION 1. Section 17054.6 is added to the Revenue and Taxation Code, to read:~~

~~17054.6. (a) For each taxable year beginning on or after January 1, 2014, and before January 1, 2016, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to 50 percent of the annual premium amount paid or incurred during the taxable year by a qualified taxpayer for an individual health care service plan contract or individual policy of health insurance.~~

~~(b) For the purposes of this section, the following definitions shall apply:~~

~~(1) “Individual health care service plan contract” means a plan contract, as defined in Section 1345 of the Health and Safety Code, issued to an individual.~~

~~(2) “Individual policy of health insurance” means a policy issued to an individual for health insurance, as defined in Section 106 of the Insurance Code.~~

~~(3) “Qualified taxpayer” means an individual, including an individual with dependents, whose individual health care service plan contract or individual policy of health insurance was canceled between December 31, 2013, and December 31, 2014, inclusive, pursuant to paragraph (5) or (6) of subdivision (a) of Section 1365 of the Health and Safety Code, or subdivision (d) or (e) of Section 10273.6 of the Insurance Code and, with respect to the purchase of a new individual plan contract or policy, the individual was not eligible for a federal subsidy for reduced cost sharing for individuals enrolling in qualified health plans as described in Section 18071 of Title 42 of the United States Code or a federal health care tax credit as described in Section 36B of Title 26 of the Internal Revenue Code.~~

~~(e) In the case where the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” in the following year, and succeeding seven years if necessary, until the credit is exhausted.~~

~~(d) A deduction otherwise allowed under this part for any amount paid or incurred by the qualified taxpayer upon which the credit is based shall be reduced by the amount of the credit allowed by this section.~~

~~(e) Credit under this section shall be allowed only for credits claimed on a timely filed original return of the qualified taxpayer.~~

~~(f) (1) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section.~~

~~(2) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to this section.~~

~~(g) This section shall be repealed on December 1, 2016.~~

- 1 ~~SEC. 2. This act provides for a tax levy within the meaning of~~  
2 ~~Article IV of the Constitution and shall go into immediate effect.~~

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